

AMENDED IN SENATE SEPTEMBER 3, 1999
AMENDED IN SENATE SEPTEMBER 2, 1999
AMENDED IN SENATE AUGUST 25, 1999
AMENDED IN SENATE AUGUST 23, 1999
AMENDED IN SENATE AUGUST 16, 1999
AMENDED IN SENATE JULY 12, 1999
AMENDED IN SENATE JUNE 29, 1999
AMENDED IN ASSEMBLY JUNE 1, 1999
AMENDED IN ASSEMBLY MAY 18, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1127

Introduced by Assembly Member Steinberg

February 25, 1999

An act to amend Sections 98.7, 6304.5, 6309, 6400, 6423, 6425, 6428, 6429, 6430, 6432, and 6434 of, and to add Section 6719 to, the Labor Code, relating to employee safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1127, as amended, Steinberg. Employee safety: violations.

Under existing law, any person who believes that he or she has been discharged or otherwise discriminated against in violation of the Labor Code under the jurisdiction of the

Labor Commissioner may file a complaint with the Division of Labor Standards Enforcement within 30 days after the occurrence of the violation.

This bill would extend from 30 days to 6 months that period of time within which a complaint may be filed with the division.

Existing law provides that the provisions of the California Occupational Safety and Health Act of 1973 (hereafter the act) have no application to, may not be considered in, and may not be admitted into, evidence in any personal injury or wrongful death action arising after January 1, 1972, except as between an employee and his or her employer.

This bill instead would provide that neither the issuance of, or failure to issue, a citation by the Division of Occupational Safety and Health (hereafter the division) has any application to, nor may be considered in, nor may be admitted into, evidence in any personal injury or wrongful death action, except as between an employee and his or her employer. The bill also would provide that Sections 452 and 669 of the Evidence Code would apply to the act and the occupational safety and health standards and orders promulgated under the Labor Code in the same manner as any other statute, ordinance, or regulation.

Existing law provides that if the division secures a complaint from an employee, the employee's representative, or an employer of the employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, the division is required to summarily investigate the complaint as soon as possible, but not later than 3 working days after receipt of a complaint charging a serious violation, and not later than 14 days after receipt of a complaint charging a nonserious violation. Under existing law the division is not required to respond to a complaint if it determines that either the complaint is intended to willfully harass an employer or is without reasonable basis.

This bill would require the division additionally to conduct those investigations if a complaint is received by the employee's representative, including, but not limited to, an attorney, health or safety professional, union representative, or representative of a government agency. The bill would also



provide that the division is not required to respond to a complaint if, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer and is without any reasonable basis.

Existing law provides that every employer, and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or other employee is guilty of a misdemeanor if it, among other things, knowingly or negligently violates any standard, order, or special order, or any of certain provisions of law, or part thereof, authorized by the act, the violation of which is deemed to be a serious violation, as defined.

This bill would also make conforming changes to other provisions of law that impose civil and criminal penalties on employers for violation of specified occupational safety and health requirements. The bill would increase from \$5,000 to \$15,000 the maximum fine that may be imposed for a violation of those provisions. The bill also would increase the length of incarceration and the monetary penalties that may be imposed for a willful or repeated violation of certain employee safety standards that cause death to any employee, or cause permanent or prolonged impairment of the body of any employee. The bill also would authorize a court to impose a fine in an amount less than certain minimums specified in the bill if the court finds that it is in the interest of justice to do so and states its findings and reasons on the record.

Existing law prohibits civil penalties from being assessed against employers that are governmental agencies for violations of certain employee safety standards.

This bill would repeal that prohibition and require civil or administrative penalties against a school district, community college district, California State University, University of California, or other specified educational entities to be deposited into the Workplace Health and Safety Revolving Fund and refunded or used for specified purposes.

Existing law requires the Occupational Safety and Health Standards Board (hereafter the standards board), on or before January 1, 1995, to adopt standards for ergonomics in the workplace designed to minimize the instances of injury from repetitive motion.

This bill would reaffirm the standards board's continuing duty to adopt those standards.

By making certain violations of employee safety standards by employers subject to criminal penalties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 98.7 of the Labor Code is
2 amended to read:

3 98.7. (a) Any person who believes that he or she has
4 been discharged or otherwise discriminated against in
5 violation of any provision of this code under the
6 jurisdiction of the Labor Commissioner may file a
7 complaint with the division within six months after the
8 occurrence of the violation. The six-month period may be
9 extended for good cause. The complaint shall be
10 investigated by a discrimination complaint investigator in
11 accordance with this section. The Labor Commissioner
12 shall establish procedures for the investigation of
13 discrimination complaints. A summary of the procedures
14 shall be provided to each complainant and respondent at
15 the time of initial contact. The Labor Commissioner shall
16 inform complainants charging a violation of Section 6310
17 or 6311, at the time of initial contact, of his or her right to
18 file a separate, concurrent complaint with the United
19 States Department of Labor within 30 days after the
20 occurrence of the violation.

21 (b) Each complaint of unlawful discharge or
22 discrimination shall be assigned to a discrimination
23 complaint investigator who shall prepare and submit a
24 report to the Labor Commissioner based on an

1 investigation of the complaint. The Labor Commissioner
2 may designate the chief deputy or assistant Labor
3 Commissioner or the chief counsel to receive and review
4 the reports. The investigation shall include, where
5 appropriate, interviews with the complainant,
6 respondent, and any witnesses who may have
7 information concerning the alleged violation, and a
8 review of any documents which may be relevant to the
9 disposition of the complaint. The identity of witnesses
10 shall remain confidential unless the identification of the
11 witness becomes necessary to proceed with the
12 investigation or to prosecute an action to enforce a
13 determination. The investigation report submitted to the
14 Labor Commissioner or designee shall include the
15 statements and documents obtained in the investigation,
16 and the findings of the investigator concerning whether
17 a violation occurred. The Labor Commissioner may hold
18 an investigative hearing whenever the Labor
19 Commissioner determines, after review of the
20 investigation report, that a hearing is necessary to fully
21 establish the facts. In the hearing the investigation report
22 shall be made a part of the record and the complainant
23 and respondent shall have the opportunity to present
24 further evidence. The Labor Commissioner shall issue,
25 serve, and enforce any necessary subpoenas.

26 (c) If the Labor Commissioner determines a violation
27 has occurred, he or she shall notify the complainant and
28 respondent and direct the respondent to cease and desist
29 from the violation and take such action as is deemed
30 necessary to remedy the violation, including, where
31 appropriate, rehiring or reinstatement, reimbursement
32 of lost wages and interest thereon, payment of reasonable
33 attorney's fees associated with any hearing held by the
34 Labor Commissioner in investigating the complaint, and
35 the posting of notices to employees. If the respondent
36 does not comply with the order within 10 working days
37 following notification of the Labor Commissioner's
38 determination, the Labor Commissioner shall bring an
39 action promptly in an appropriate court against the
40 respondent. If the Labor Commissioner fails to bring an

1 action in court promptly, the complainant may bring an
2 action against the Labor Commissioner in any
3 appropriate court for a writ of mandate to compel the
4 Labor Commissioner to bring an action in court against
5 the respondent. If the complainant prevails in his or her
6 action for a writ, the court shall award the complainant
7 court costs and reasonable attorney's fees,
8 notwithstanding any other provision of law. Regardless of
9 any delay in bringing an action in court, the Labor
10 Commissioner shall not be divested of jurisdiction. In any
11 such action, the court may permit the claimant to
12 intervene as a party plaintiff to the action and shall have
13 jurisdiction, for cause shown, to restrain the violation and
14 to order all appropriate relief. Appropriate relief
15 includes, but is not limited to, rehiring or reinstatement
16 of the complainant, reimbursement of lost wages and
17 interest thereon, and any other compensation or
18 equitable relief as is appropriate under the circumstances
19 of the case. The Labor Commissioner shall petition the
20 court for appropriate temporary relief or restraining
21 order unless he or she determines good cause exists for
22 not doing so.

23 (d) If the Labor Commissioner determines no
24 violation has occurred, he or she shall notify the
25 complainant and respondent and shall dismiss the
26 complaint. The Labor Commissioner may direct the
27 complainant to pay reasonable attorney's fees associated
28 with any hearing held by the Labor Commissioner if the
29 Labor Commissioner finds the complaint was frivolous,
30 unreasonable, groundless, and was brought in bad faith.
31 The complainant may, after notification of the Labor
32 Commissioner's determination to dismiss a complaint,
33 bring an action in an appropriate court, which shall have
34 jurisdiction to determine whether a violation occurred,
35 and if so, to restrain the violation and order all
36 appropriate relief to remedy the violation. Appropriate
37 relief includes, but is not limited to, rehiring or
38 reinstatement of the complainant, reimbursement of lost
39 wages and interest thereon, and such other compensation
40 or equitable relief as is appropriate under the

1 circumstances of the case. When dismissing a complaint,
2 the Labor Commissioner shall advise the complainant of
3 his or her right to bring an action in an appropriate court
4 if he or she disagrees with the determination of the Labor
5 Commissioner, and in the case of an alleged violation of
6 Section 6310 or 6311, to file a complaint against the state
7 program with the United States Department of Labor.

8 (e) The Labor Commissioner shall notify the
9 complainant and respondent of his or her determination
10 under subdivision (c) or (d), not later than 60 days after
11 the filing of the complaint. Determinations by the Labor
12 Commissioner under subdivision (c) or (d) may be
13 appealed by the complainant or respondent to the
14 Director of Industrial Relations within 10 days following
15 notification of the determination. The appeal shall set
16 forth specifically and in full detail the grounds upon
17 which the appealing party considers the Labor
18 Commissioner's determination to be unjust or unlawful,
19 and every issue to be considered by the director. The
20 director may consider any issue relating to the initial
21 determination and may modify, affirm, or reverse the
22 Labor Commissioner's determination. The director's
23 determination shall be the determination of the Labor
24 Commissioner. The director shall notify the complainant
25 and respondent of his or her determination within 10 days
26 of receipt of the appeal.

27 (f) The rights and remedies provided by this section
28 do not preclude an employee from pursuing any other
29 rights and remedies under any other provisions of law.

30 SEC. 2. Section 6304.5 of the Labor Code is amended
31 to read:

32 6304.5. It is the intent of the Legislature that the
33 provisions of this division, and the occupational safety and
34 health standards and orders promulgated under this
35 code, are applicable to proceedings against employers for
36 the exclusive purpose of maintaining and enforcing
37 employee safety.

38 Neither the issuance of, or failure to issue, a citation by
39 the division shall have any application to, nor be
40 considered in, nor be admissible into, evidence in any

1 personal injury or wrongful death action, except as
2 between an employee and his or her own employer.
3 Sections 452 and 669 of the Evidence Code shall apply to
4 this division and to occupational safety and health
5 standards adopted under this division in the same manner
6 as any other statute, ordinance, or regulation. The
7 testimony of employees of the division shall not be
8 admissible as expert opinion or with respect to the
9 application of occupational safety and health standards. *It*
10 *is the intent of the Legislature that the amendments to*
11 *this section enacted in the 1999–2000 Regular Session shall*
12 *not abrogate the holding in Brock v. State of California*
13 *(1978) 8l Cal.App.3d 752.*

14 SEC. 3. Section 6309 of the Labor Code is amended to
15 read:

16 6309. If the division learns or has reason to believe
17 that any employment or place of employment is not safe
18 or is injurious to the welfare of any employee, it may, of
19 its own motion, or upon complaint, summarily investigate
20 the same with or without notice or hearings. However, if
21 the division secures a complaint from an employee, the
22 employee's representative, including, but not limited to,
23 an attorney, health or safety professional, union
24 representative; or representative of a government
25 agency, or an employer of an employee directly involved
26 in an unsafe place of employment, that his or her
27 employment or place of employment is not safe, it shall,
28 with or without notice or hearing, summarily investigate
29 the same as soon as possible, but not later than three
30 working days after receipt of a complaint charging a
31 serious violation, and not later than 14 calendar days after
32 receipt of a complaint charging a nonserious violation.
33 The division shall attempt to determine the period of
34 time in the future that the complainant believes the
35 unsafe condition may continue to exist, and shall allocate
36 inspection resources so as to respond first to those
37 situations in which time is of the essence. For purposes of
38 this section, a complaint shall be deemed to allege a
39 serious violation if the division determines that the
40 complaint charges that there is a substantial probability

1 that death or serious physical harm could result from a
2 condition which exists, or from one or more practices,
3 means, methods, operations, or processes which have
4 been adopted or are in use in a place of employment.
5 When a complaint charging a serious violation is received
6 from a state or local prosecutor, the division shall
7 summarily investigate the employment or place of
8 employment within 24 hours of receipt of the complaint.
9 All other complaints shall be deemed to allege nonserious
10 violations. The division may enter and serve any
11 necessary order relative thereto. The division is not
12 required to respond to any complaint within this period
13 where, from the facts stated in the complaint, it
14 determines that the complaint is intended to willfully
15 harass an employer or is without any reasonable basis.

16 The division shall keep complete and accurate records
17 of any complaints, whether verbal or written, and shall
18 inform the complainant, whenever his or her identity is
19 known, of any action taken by the division in regard to the
20 subject matter of the complaint, and the reasons for the
21 action. The records of the division shall include the dates
22 on which any action was taken on the complaint, or the
23 reasons for not taking any action on the complaint. The
24 division shall, pursuant to authorized regulations,
25 conduct an informal review of any refusal by a
26 representative of the division to issue a citation with
27 respect to any alleged violation. The division shall furnish
28 the employee or the representative of employees
29 requesting the review a written statement of the reasons
30 for the division's final disposition of the case.

31 The name of any person who submits to the division a
32 complaint regarding the unsafeness of an employment or
33 place of employment shall be kept confidential by the
34 division, unless that person requests otherwise.

35 The requirements of this section shall not relieve the
36 division of its requirement to inspect and assure that all
37 places of employment are safe and healthful for
38 employees. The division shall maintain the capability to
39 receive and act upon complaints at all times.

1 SEC. 4. Section 6400 of the Labor Code is amended to
2 read:

3 6400. (a) Every employer shall furnish employment
4 and a place of employment that is safe and healthful for
5 the employees therein.

6 (b) On multiemployer worksites, both construction
7 and nonconstruction, citations may be issued only to the
8 following categories of employers when the division has
9 evidence that an employee was exposed to a hazard in
10 violation of any requirement enforceable by the division:

11 (1) The employer whose employees were exposed to
12 the hazard (the exposing employer).

13 (2) The employer who actually created the hazard
14 (the creating employer).

15 (3) The employer who was responsible, by contract or
16 through actual practice, for safety and health conditions
17 on the worksite, which is the employer who had the
18 authority for ensuring that the hazardous condition is
19 corrected (the controlling employer).

20 (4) The employer who had the responsibility for
21 actually correcting the hazard (the correcting
22 employer).

23 The employers listed in paragraphs (2) to (4),
24 inclusive, of this subdivision may be cited regardless of
25 whether their own employees were exposed to the
26 hazard.

27 (c) It is the intent of the Legislature, in adding
28 subdivision (b) to this section, to codify existing
29 regulations with respect to the responsibility of
30 employers at multiemployer worksites. Subdivision (b) of
31 this section is declaratory of existing law and shall not be
32 construed or interpreted as creating a new law or as
33 modifying or changing an existing law.

34 SEC. 5. Section 6423 of the Labor Code is amended to
35 read:

36 6423. Except where another penalty is specifically
37 provided, every employer and every officer,
38 management official, or supervisor having direction,
39 management, control, or custody of any employment,

1 place of employment, or of any other employee, who does
2 any of the following is guilty of a misdemeanor:

3 (a) Knowingly or negligently violates any standard,
4 order, or special order, or any provision of this division, or
5 of any part thereof in, or authorized by, this part the
6 violation of which is deemed to be a serious violation
7 pursuant to Section 6432.

8 (b) Repeatedly violates any standard, order, or special
9 order, or provision of this division, or any part thereof in,
10 or authorized by, this part, which repeated violation
11 creates a real and apparent hazard to employees.

12 (c) Fails or refuses to comply, after notification and
13 expiration of any abatement period, with any such
14 standard, order, special order, or provision of this division,
15 or any part thereof, which failure or refusal creates a real
16 and apparent hazard to employees.

17 (d) Directly or indirectly, knowingly induces another
18 to commit any of the acts in subdivisions (a), (b), or (c).
19 Any violation of subdivision (a) is punishable by
20 imprisonment in the county jail for a period not to exceed
21 six months, or by a fine not to exceed five thousand dollars
22 (\$5,000), or by both that imprisonment and fine.

23 Any violation of the provisions of subdivision (b), (c),
24 or (d) of this section is punishable by imprisonment in a
25 county jail for a term not exceeding one year, or by a fine
26 not exceeding fifteen thousand dollars (\$15,000), or by
27 both that imprisonment and fine. If the defendant is a
28 corporation or a limited liability company, the fine may
29 not exceed one hundred fifty thousand dollars (\$150,000).

30 (e) In determining the amount of fine to impose under
31 this section, the court shall consider all relevant
32 circumstances, including, but not limited to, the nature,
33 circumstance, extent, and gravity of the violation, any
34 prior history of violations by the defendant, the ability of
35 the defendant to pay, and any other matters the court
36 determines the interests of justice require.

37 SEC. 6. Section 6425 of the Labor Code is amended to
38 read:

39 6425. (a) Any employer and any employee having
40 direction, management, control, or custody of any

1 employment, place of employment, or of any other
2 employee, who willfully violates any occupational safety
3 or health standard, order, or special order, or Section
4 25910 of the Health and Safety Code, and that violation
5 caused death to any employee, or caused permanent or
6 prolonged impairment of the body of any employee, is
7 guilty of a public offense punishable by imprisonment in
8 a county jail for a term not exceeding one year, or by a fine
9 not exceeding one hundred thousand dollars (\$100,000),
10 or by both that imprisonment and fine; or by
11 imprisonment in the state prison for 16 months, or two or
12 three years, or by a fine of not more than two hundred
13 fifty thousand dollars (\$250,000), or by both that
14 imprisonment and fine; and in either case, if the
15 defendant is a corporation or a limited liability company,
16 the fine may not exceed one million five hundred
17 thousand dollars (\$1,500,000).

18 (b) If the conviction is for a violation committed
19 within seven years after a conviction under subdivision
20 (b), (c), or (d) of Section 6423 or subdivision (c) of
21 Section 6430, punishment shall be by imprisonment in
22 state prison for a term of 16 months, two, or three years,
23 or by a fine not exceeding two hundred fifty thousand
24 dollars (\$250,000), or by both that fine and imprisonment,
25 but if the defendant is a corporation or limited liability
26 company, the fine may not be less than five hundred
27 thousand dollars (\$500,000) or more than two million five
28 hundred thousand dollars (\$2,500,000).

29 (c) If the conviction is for a violation committed
30 within seven years after a first conviction of the
31 defendant for any crime involving a violation of
32 subdivision (a), punishment shall be by imprisonment in
33 the state prison for two, three, or four years, or by a fine
34 not exceeding two hundred fifty thousand dollars
35 (\$250,000), or by both that fine and imprisonment, but if
36 the defendant is a corporation or a limited liability
37 company, the fine shall not be less than one million dollars
38 (\$1,000,000) but may not exceed three million five
39 hundred thousand dollars (\$3,500,000).

(d) In determining the amount of fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

(e) As used in this section, “willfully” has the same definition as it has in Section 7 of the Penal Code. This subdivision is intended to be a codification of existing law.

(f) This section does not prohibit a prosecution under Section 192 of the Penal Code.

SEC. 7. Section 6428 of the Labor Code is amended to read:

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 8. Section 6429 of the Labor Code is amended to read:

6429. Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation, but in no case less than five thousand dollars (\$5,000) for each willful violation.

(b) Any employer who repeatedly violates any occupational safety or health standard, order, or special order, or of Section 25910 of the Health and Safety Code, shall not receive any adjustment of a penalty assessed pursuant to this section on the basis of the regulations promulgated pursuant to subdivision (c) of Section 6319

1 pertaining to the good faith of the employer or the history
2 of previous violations of the employer.

3 (c) The division shall preserve and maintain records of
4 its investigations and inspections and citations for a
5 period of not less than seven years.

6 SEC. 9. Section 6430 of the Labor Code is amended to
7 read:

8 6430. (a) Any employer who fails to correct a
9 violation of any occupational safety or health standard,
10 order, or special order, or Section 25910 of the Health and
11 Safety Code, within the period permitted for its
12 correction shall be assessed a civil penalty of not more
13 than fifteen thousand dollars (\$15,000) for each day
14 during which the failure or violation continues.

15 (b) Notwithstanding subdivision (a), for any
16 employer who submits a signed statement affirming
17 compliance with the abatement terms pursuant to
18 Section 6320, and is found upon a reinspection not to have
19 abated the violation, any adjustment to the civil penalty
20 based on abatement shall be rescinded and the additional
21 civil penalty assessed for failure to abate shall not be
22 adjusted for good faith of the employer or history of
23 previous violations as provided in paragraphs (3) and (4)
24 of subdivision (c) of Section 6319.

25 (c) Notwithstanding subdivision (a), any employer
26 who submits a signed statement affirming compliance
27 with the abatement terms pursuant to subdivision (b) of
28 Section 6320, and is found not to have abated the
29 violation, is guilty of a public offense punishable by
30 imprisonment in a county jail for a term not exceeding
31 one year, or by a fine not exceeding thirty thousand
32 dollars (\$30,000), or by both that fine and imprisonment;
33 but if the defendant is a corporation or a limited liability
34 company the fine shall not exceed three hundred
35 thousand dollars (\$300,000). In determining the amount
36 of the fine to be imposed under this section, the court shall
37 consider all relevant circumstances, including, but not
38 limited to, the nature, circumstance, extent, and gravity
39 of the violation, any prior history of violations by the
40 defendant, the ability of the defendant to pay, and any

1 other matters the court determines the interests of justice
2 require. Nothing in this section shall be construed to
3 prevent prosecution under any law that may apply.

4 SEC. 10. Section 6432 of the Labor Code is amended
5 to read:

6 6432. (a) As used in this part, a “serious violation”
7 shall be deemed to exist in a place of employment if there
8 is a substantial probability that death or serious physical
9 harm could result from a violation, including, but not
10 limited to, circumstances where there is a substantial
11 probability that either of the following could result in
12 death or great bodily injury:

13 (1) A serious exposure exceeding an established
14 permissible exposure limit.

15 (2) The existence of one or more practices, means,
16 methods, operations, or processes which have been
17 adopted or are in use, in the place of employment.

18 (b) Notwithstanding subdivision (a), a serious
19 violation shall not be deemed to exist if the employer can
20 demonstrate that it did not, and could not with the
21 exercise of reasonable diligence, know of the presence of
22 the violation.

23 (c) As used in this section, “substantial probability”
24 refers not to the probability that an accident or exposure
25 will occur as a result of the violation, but rather to the
26 probability that death or serious physical harm will result
27 assuming an accident or exposure occurs as a result of the
28 violation.

29 SEC. 11. Section 6434 of the Labor Code is amended
30 to read:

31 6434.

32 (a) Any civil or administrative penalty assessed
33 pursuant to this chapter against a school district, county
34 board of education, county superintendent of schools,
35 charter school, community college district, California
36 State University, University of California, or joint powers
37 agency performing education functions shall be
38 deposited with the Workplace Health and Safety
39 Revolving Fund established pursuant to Section 78.

1 (b) Any school district, county board of education,
2 county superintendent of schools or charter school
3 community college district, California State University,
4 University of California, or joint powers agency
5 performing education functions may apply for a refund
6 of their civil penalty, with interest, if all conditions
7 previously cited have been abated, they have abated any
8 other outstanding citation, and if they have not been cited
9 by the division for a serious violation at the same school
10 within two years of the date of the original violation.
11 Funds not applied for within two years and six months of
12 the time of the original violation shall be expended as
13 provided for in Section 78 to assist schools in establishing
14 effective occupational injury and illness prevention
15 programs.

16 SEC. 12. Section 6719 is added to the Labor Code, to
17 read:

18 6719. The Legislature reaffirms its concern over the
19 prevalence of repetitive motion injuries in the workplace
20 and reaffirms the Occupational Safety and Health
21 Standards Board's continuing duty to carry out Section
22 6357.

23 SEC. 13. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

